

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
2004 SEP 16 P 2:54
U.S. DISTRICT COURT
DISTRICT OF MASS

ALEX DELGADO,
Petitioner,

v.

KATHLEEN M. DENNEHY,
COMMISSIONER OF CORRECTION,
Respondent.

Civil Action No. 04-30124-MAP

ANSWER

The respondent, pursuant to Rule 5 of the Rules Governing Section 2254 Cases, answers the numbered paragraphs of the petition for writ of habeas corpus as follows:

- 1.-8 Admitted.
- 9(a)-9(d). Admitted.
- 10. Admitted.
- 11(a)(1). Admitted.
- 11(a)(2). Admitted.
- 11(a)(3). The respondent is without knowledge or information sufficient to form a belief as to the truth of the paragraphs of Addendum "B".
- 11(a)(4)-
11(a)(6). Admitted.
- 11(c)(1). Admitted.
- 12A-12B. Addendum "C" contains conclusions of law requiring no response. To the extent that the petitioner presents facts, they are denied.
- 14. The respondent is without knowledge or information sufficient to form a belief as to the truth of these paragraphs.
- 15(a)-15(g). Admitted.
- 16. Admitted.
- 17. The respondent is without knowledge or information sufficient to form a belief as to the truth of these paragraphs.

And further answering pursuant to Rule 5 of the Rules Governing 28 U.S.C.

§2254 cases, the respondent is also filing a Supplemental Answer with the following documents from the petitioner's state court proceedings:

1. Brief of Appellant Delgado on Appeal to the Massachusetts Supreme Judicial Court (SJC-05927)
2. Record Appendix of Appellant Delgado on Appeal to the Massachusetts Supreme Judicial Court (SJC-05927)
3. Brief of Appellant Arriaga on Appeal to the Massachusetts Supreme Judicial Court (SJC-05927)
4. Record Appendix of Appellant Arriaga to the Massachusetts Supreme Judicial Court (SJC-05927)
5. Brief for the Commonwealth of Massachusetts on Appeal to the Massachusetts Supreme Judicial Court (SJC-05927.)
6. Reply Brief for the Appellant Delgado (SJC-05927).
7. *Commonwealth v. Hector Arriaga (and a companion case)*, 438 Mass. 556, 781 N.E. 2d 1253 (2003).

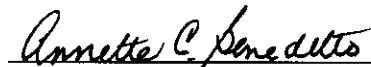
DEFENSES

1. The state court adjudication of the petitioner's claims did not result in a decision that was contrary to, or involved an unreasonable application of, clearly established federal law, as determined by the Supreme Court of the United States. 28 U.S.C. §2254(d)(1).
2. The petition contains issues of state law not cognizable on federal habeas review.
3. The petitioner has procedurally defaulted on one or more claims and the decision of the Supreme Judicial Court rests an adequate and independent state law ground.
4. The petition fails to state a claim upon which habeas corpus relief can be granted.

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Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

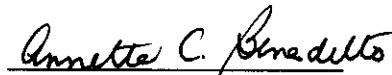


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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the attached documents was served upon the petitioner's counsel by first class mail, postage pre-paid, on September 15, 2004, at the following address:

John M. Thompson
Thompson & Thompson
1331 Main Street
Springfield, MA 01103



Annette C. Benedetto
Assistant Attorney General

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

_____)	
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v.)	Civil Action No. 04-30124-MAP
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COMMISSIONER OF CORRECTION,)	
Respondent.)	
_____)	

SUPPLEMENTAL ANSWER

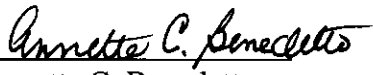
Pursuant to Rule 5 of the Rules Governing Section 2254 Cases, the respondent submits the following material as a supplement to his Answer.

1. Brief of Appellant Delgado on Appeal to the Massachusetts Supreme Judicial Court (SJC-05927)
2. Record Appendix of Appellant Delgado on Appeal to the Massachusetts Supreme Judicial Court (SJC-05927)
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